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EXAMINER

HWANG, VICTOR KENNY

ART UNIT PAPER NUMBER

3764

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/714,388

Applicant(s)

HETRICK, RANDAL A.

Examiner

Victor K. Hwang

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 8,9 and 22-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-21 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20050428.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Group I (claims 1-21), Species C (claims 10-13) in the reply filed on February 10, 2005 is acknowledged.

Claims 8, 9 and 22-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 10, 2005.

### *Drawings*

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "129" referred to in paragraph [0051]. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "2517" has been used to designate both the central slot of bracket 2500 and a crease in the bracket 2500. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the strap 427 having a second, free end 431 that loops about second strap bar 707 as described in the specification in paragraph [0061]. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining

figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to because in Fig. 2, at the top of the drawing, "11" and "0" presumably should be combined to read --110--; and in Fig. 22B, "2213" presumably should be changed to --2113--, since "2213" is also used to identify the first end in Fig. 22D. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant

will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Specification*

6. The disclosure is objected to because of the following informalities:

[0044], line 3, "22B" and "22C" presumably should be respectively replaced with --21B--and --21C--;

[0045], line 2, "FIG. 21A" presumably should be replaced with --FIG.22A--;

[0045], line 2, "21B" presumably should be replaced with --22B--;

[0045], line 3, "21C" presumably should be replaced with --22C--;

[0045], line 4, each occurrence of "21D" presumably should be replaced with --22D--;

[0045], line 4, "21C" presumably should be replaced with --22B--;

[0065], line 7, "820" presumably should be replaced with --1020--;

[0065], line 7, "425" presumably should be replaced with --435--;

[0065], line 8, "1001" presumably should be replaced with --4001--;

[0069], line 5, "1400" presumably should be replaced with --1410--;

[0072], line 2, "1413" presumably should be replaced with --1415--;

[0074], line 4, "120" presumably should be replaced with --420--;

[0092], line 8, "1903" presumably should be replaced with --2003--;

[0095], line 14, "22B" presumably should be replaced with --21B--;

[0095], line 15, "22C" presumably should be replaced with --21C--; and

[0097]-[0099], significant correction of FIG. numbers and reference characters appear to be required.

Appropriate correction is required.

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the Detailed Description does not support the elongated member between the pair of integral grips as being elastic (claim 21).

#### *Claim Objections*

8. Claim 17 is objected to because of the following informalities:  
in claim 17, the recitation "said first portion" presumably refers to a first portion of the anchor.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4, 10 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by *Macabet et al.* (US Pat. 3,752,474). *Macabet et al.* discloses a portable exercise apparatus

comprising a resistance exercise device having at least one integral grip 6,6a; and an accessory grip 10,13,20,21 removably coupled to the at least one integral grip. Applicant has defined a grip to encompass any device that is interlockable with part of the human body [0009]. Therefore, at the least, the pulleys 6,6a qualify as grips.

With regard to claim 2, the at least one grip is a pair of grips 6,6a. The resistance exercise device includes an inelastic elongated member 5 between the pair of grips 6,6a, and an anchor 2,3,4 for attaching the elongated member 5 to a stationary support 1,19.

With regard to claim 3, the anchor has a first end 4 slidably attached to the elongated inelastic member between the pair of grips and a second end 2 adapted for attaching to the stationary support.

With regard to claim 4, the inelastic member 5 further includes a mechanism 15 to adjust the length of the inelastic member between the pair of integral grips.

With regard to claim 10, the accessory grip includes a plurality of cords 7,8 adapted for gripping, in any combination, by a hand of a user. The cords can be adapted by attachment of the grip 10 or other accessory grips disclosed.

With regard to claim 16, the stationary support may be a closed door 19 having a door jamb, wherein the anchor includes an enlarged portion 18 at the second end and a strap 2 between the first end 4 and the second end that is passable between the closed door and the door jamb, and wherein the enlarged end 18 is not passable between the closed door and the door jamb.

With regard to claim 17, the stationary support is a pole 1, rail or stanchion, wherein the first portion (second end) includes a strap 17 and a tensioning device 17a, wherein the strap



has a length sufficiently long to wrap about the stationary support 1, and wherein the tensioning device is adapted for tightening the strap about the stationary support.

With regard to claim 18, the length of the elongated member is between 6 feet and 12 feet. In looking at the drawing of Fig. 1, if the user is of average height, around 5 feet 8 inches, the length of the inelastic elongate member 5 between the pair of grips 6,6a, as shown, would be approximately 9 feet.

With regard to claim 19, the support 1,19 and elongated member 5 interact to provide frictional restraint with respect to the anchor 2 when the pair of integral grips 6,6a are pulled in a direction away from the anchor 2 as a function of the force applied to each of the pulled grips. When the force applied to each of the grips is increased while the grips are positioned equidistant from the anchor, the frictional restraint restrains the elongated member with the integral grips equidistant from the anchor. The claim language does not require there to be frictional resistance between the anchor and the elongated member to resist movement of the elongated member relative to the anchor.

11. Claims 1 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by *Davies* (US Pat. 5,433,688). *Davies* discloses a portable exercise apparatus comprising a resistance exercise device having at least one integral grip 20; and an accessory grip 18 removably coupled to the at least one integral grip 20. The at least one integral grip 20 is a pair of integral grips 20. The resistance exercise device further includes an elastic elongated member 12 between the pair of integral grips 20.

*Claim Rejections - 35 USC § 103*

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Macabet et al.* (US Pat. 3,752,474) in view of *Wolfe* (US Pat. 6,258,011 B1). *Macabet et al.* has been discussed above, and such discussion is incorporated herein. *Macabet et al.* discloses the invention as claimed except for the stationary support being a wall; the anchor including an enlarged portion at the second end and a strap between the first end and the second end; a bracket having a first portion affixed to the wall and a second portion having an opening and spaced from the first portion, where the opening in the second portion is adapted to accept the strap, where the spacing between the wall and the second portion is sufficient to accept the enlarged portion, and where the opening is sufficiently small to prevent the enlarged portion from passing through the opening.

*Wolfe* discloses a wall apparatus for supporting an exercise device. The exercise device comprises an anchor 34 including an enlarged portion 30 and a strap 36. A bracket having a first portion 20 affixed to the wall 50 and a second portion 10 having an opening 12,14 and spaced apart from the first portion 20, wherein the opening 12 in the second portion 10 is adapted to accept the strap 36, where the spacing between the wall and the second portion 10 is sufficient to accept the enlarged portion 30, and where the opening 14 is sufficiently small to

prevent the enlarged portion 30 from passing through the opening 14. The wall apparatus provides a support structure that can be installed in a wall on a permanent basis, and is reliable and convenient when used to support a strap or rope during exercises (col. 1, lines 20-23).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the exercise apparatus of *Macabet et al.* with the anchor and bracket of *Wolfe*, in order to provide a support structure that can be installed in a wall on a permanent basis, and is reliable and convenient when used to support a strap or rope during exercises (col. 1, lines 20-23).

14. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Macabet et al.* (US Pat. 3,752,474) in view of *Dunston* (US Pat. 4,060,240). *Macabet et al.* has been discussed above, and such discussion is incorporated herein. *Macabet et al.* discloses the invention as claimed except for the mechanism to adjust the length of the elongated inelastic member includes at least one cam buckle (claim 14); and wherein the at least one cam buckle is two cam buckles (claim 15).

*Dunston* discloses an adjustable inelastic exercise device comprising an elongated member 26 having a pair of ends separated by a length and a mechanism 30 for adjusting the length, the pair of ends including a first end having a first grip 24 and a second end having a second grip 22; and an anchor 10 having a first portion 16 for mounting the device to a structure and a second portion 12,20 to support the elongated member at a position along the length when both of the grips are pulled in a direction away from the anchor. The mechanism for adjusting the length includes at least one cam buckle 32 such that the length is adjustable

according to the length of strap 26 through the cam buckle 30. Duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Therefore, it would have been a design consideration within the skill of the art to provide a second cam buckle adjacent the second end or grip of the device.

The cam buckles 30 provide means to readily adjust the amount of cord between first and second hand grips and second portion 20 and thus provide the necessary length of cord depending upon the exercise to be performed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of *Macabet et al.* with the cam buckles of *Dunston*, in order to readily adjust the amount of cord between first and second hand grips and second portion and thus provide the necessary length of cord depending upon the exercise to be performed.

15. Claims 1-7, 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Suzaki* (US Pat. 5,352,172) in view of *Shields* (US Pat. 5,217,029). *Suzaki* discloses an adjustable, inelastic exercise device comprising an elongated member 30 having a pair of ends separated by a length and a mechanism for adjusting the length, the pair of ends including a first end 32 having a first grip 36 and a second end having a second grip 38; and an anchor having a first portion, including a strap 20 for mounting the device to a structure and a second portion 12 to support the elongated member at a position along the length when both of the grips are pulled in a direction away from the anchor, where the second portion support and

elongated member interact to provide frictional restraint with respect to the anchor as a function of the force applied to each of the pulled grips.

The first portion of the anchor is removably attachable to a structure. The first grip and the second grip are considered integral hand grips. At least one of the first grip and the second grip is a finger grip, i.e. grippable by a finger. The structure is a closed door 24 having a door jamb 26, wherein the anchor includes a strap that is passable between the closed door and the door jamb and where a part of the first portion is not passable between the closed door and the door jamb. The material of the first portion that contacts the structure is softer than the structure, such that that the anchor will not scratch the structure. The second portion includes a loop 16 or 40. The length of the elongated member is adjustable between 6 feet and 12 feet. When the forces are increased while positioning each of the grips a distance one half of the length from the anchor, the frictional restraint restrains the elongated member with the grips equidistant from the anchor.

*Suzaki* does not disclose an accessory grip removably coupled to the at least one integral grip (claim 1); the accessory grip having a grip attachment portion including at least one strap having a length greater than the outer circumference of the rigid elongated integral grip member and includes a fastener to secure the grip attachment portion about one of the pair of integral grips (claim 6); and the fastener is a hook and loop fastener (claim 7).

*Shields* discloses an accessory grip for removably coupling to an integral grip of an exercise device. The accessory grip 10 has a grip attachment portion including at least one strap 44 having a length to wrap around the outer circumference of a handle of an exercise device. A hook and loop fastener 52,54 secures the grip attachment portion 44 about the grip

portions of an exercise device. The accessory grip assists a disabled person in exercising by providing securement support of the entire hand about an exercise device (col. 1, lines 45-46).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the portable exercise apparatus of *Suzaki* with the accessory grip of *Shields*, in order to provide assistance to a disabled person in exercising.

16. Claims 1 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over BODYBUILDER'S DISCOUNT OUTLET (Tricep Rope (I), pgs. 27-28, summer 1995 catalog). BODYBUILDER'S DISCOUNT OUTLET discloses a variety of gripping devices and accessories, including a Tricep Rope (I). The tricep rope is an accessory grip including a plurality of cords adapted for gripping, in any combination, by a hand of a user. Each of the plurality of cords has a portion with a length greater than 4 inches and a diameter of from 1/4 inch to approximately 1 inch, and a joint mutually connecting the plurality of cords, where the plurality of cords is sufficiently flexible to adjacently arrange two or more of the portions of the plurality of cords. The plurality of cords can be considered to comprise at least two cords wrapped about one another, two sets of wrapped cords extending from the joint (interpretation A); or the plurality of cords can be considered to comprise two cords, each extending from the joint (interpretation B). Each of the plurality of cords has a second end, and where the second ends are joined (interpretation A).

The distance from the joint to the second ends is approximately 10 inches. Note the picture of the tricep rope in use with the joint secured to an integral grip (the snap link) of an exercise apparatus. Considering that the average hand width is about 4 inches, the distance

between the joint and the second end is shown to be approximately 10 inches. The tricep rope is removably coupled to the snap link grip.

BODYBUILDER'S DISCOUNT OUTLET does not disclose that the exercise apparatus is portable (claim 1). It is well known in the exercise art that exercise apparatus may be made portable so that exercise may be made more convenient so that exercise may be encouraged. It would have been obvious to one having ordinary skill in the art at the time the invention was made that the accessory grip of BODYBUILDER'S DISCOUNT OUTLET be removably coupled to an exercise apparatus that is portable, since a portable exercise apparatus may be more convenient so that exercise may be encouraged.

### *Conclusion*

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Smith* (US Pat. 4,560,160) discloses a bracket for mounting to a wall and supporting a frictional exercise apparatus.

*Davis* (US Pat. 5,842,961) discloses a portable exercise apparatus comprising a resistance device having at least one integral grip (Fig. 9A) and an accessory grip 230 removably coupled to the at least one integral grip.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.


The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence at this time is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang  
May 6, 2005



JEROME W. DONNELLY  
PRIMARY EXAMINER